IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 612 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ORIENTAL FIRE AND GENERAL INSURANCE CO. LTD.
Versus
KIRANSING BACHUBHAI SOLANKI & OTHERS

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Appearance :
MR RAJNI H MEHTA for Appellant.
NONE FOR Respondents No.1 and 2 though served.
MR SR PATEL for MR AJ PATEL for Respondent No.3

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 30/07/2007

ORAL JUDGMENT

Insurance Company, being aggrieved by the award dated

31.12.85 passed by the Motor Accidents Claims Tribunal [Main], Kheda at Nadiad in MACP No. 23 of 1983 is before this Court with a submission that in view of the findings by the learned Tribunal that injured was a passenger in a goods vehicle for hire and reward, the Insurance Company cannot be held liable.

Shri Patel, learned counsel for the respondent No.3 though made various submissions, but in the light of the judgment of the Apex Court in the matter of **NEW INDIA ASSURANCE CO. LTD. vs. VEDWATI AND OTHERS, AIR 2001 SC 1334** wherein the Apex Court has observed that if a person is travelling in a goods vehicle for hire or reward, the Insurance Company would not be answerable to the claim.

The appeal is allowed. Appellant Insurance Company is exonerated of all its liabilities.

Shri Rajni Mehta states that the appellant has paid a sum of Rs.24,662/- on 15.05.86. Under the circumstances, from the said date, the appellant would be entitled to recover the entire amount so deposited along with 9% interest from the date of deposit till realization from the driver and/or owner of the vehicle.

[R.S.GARG, J.]

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